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**Individuals in Same-Sex Marriages Should Not Wait to Submit  
Applications for Social Security Benefits If They Believe They Are  
Eligible**

Washington—Following the U.S. Supreme Court’s decision striking down a portion of the Defense of Marriage Act (DOMA), Social Security and Medicare benefits may soon be available to same-sex couples in the District of Columbia and the 13 states recognizing same-sex marriage.

On June 26, 2013, in *United States v. Windsor*, the Supreme Court ruled Section 3 of DOMA unconstitutional, finding that it violated Fifth Amendment equal protection guarantees. Section 3 defined marriage for purposes of federal enactments as the union of one man and one woman. Post-*Windsor*, federal statutes referring to a marriage for federal purposes should be interpreted as applying equally to same-sex couples recognized by the state. The Social

Security Administration (SSA) is waiting for guidance from the Department of Justice to interpret the effect this decision will have on SSA-administered programs and benefits.

Individuals whose qualification for benefits (e.g., spousal benefits, survivor benefits, some benefits for children, and lump-sum death benefits) is based upon the recognition of same-sex marriage are urged to file immediately to preserve their filing date which is used to determine the start date of potential benefits.

The Supreme Court did not rule on Section 2 of DOMA, the provision allowing individual states to refuse recognition of same-sex marriages from other states. Because the Social Security Act relies on where an individual is “domicile[d] when filing for benefits,” it is not clear if benefits will be made available to same-sex couples who were legally married in one state, but reside in a state that does not recognize the marriage.

The Social Security Advisory Board is an entity established by statute to advise the President, Congress, and the Commissioner of Social Security on matters relating to the nation’s retirement and disability systems. Its mandate also includes increasing public understanding of the Social Security system. Members of the Board are appointed on a bipartisan basis by the President, the Senate, and the House of Representatives.